

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q84448

Michel PUECH

Appln. No.: 10/516,457

Group Art Unit: 1792

Confirmation No.: 2874

Examiner: Jeffrie Robert LUND

Filed: December 3, 2004

For: HEATER LINER FOR A PLASMA ETCHING REACTOR, AND AN ETCHING
METHOD USING THE LINER

**PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL
OF FINALITY, AND REQUEST FOR REFUND**

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant herein petitions for withdrawal of the finality of the Office action mailed December 20, 2007. In addition, Applicant requests a refund of extension fees that are being paid today in connection with the filing of a Notice of Appeal.

The grounds for the request for withdrawal of finality are that the Office action of December 20, 2007 included a rejection of claims 9-11 under the second paragraph of 35 USC 112. This was a new ground of rejection. The bases for the rejection were (1) alleged indefiniteness of the word "suitable" in claim 9, (2) alleged indefiniteness of the word "thermocoaxial" in claim 10, and (3) alleged indefiniteness of the phrase "such as" in claim 11. All of these words were in these claims as originally filed, so this new ground of rejection was not necessitated by any amendment made to the claims. MPEP 706.07(a) clearly states that a

second action will not be made final if the examiner introduces a new ground of rejection not necessitated by applicant's amendment of the claims.

In accordance with MPEP 706.07(c), the undersigned requested withdrawal of the finality of the Office action for these reasons in the amendment filed March 20, 2008, but finality was not withdrawn. Accordingly, this petition is filed.

Request for Refund -

Applicant herein also petitions for a refund of the \$460 in extension fees being paid today in connection with the filing of a Notice of Appeal. If the Office action of December 20, 2007 had not been made final, or if the finality of that Office action had been properly withdrawn when requested in the Amendment filed March 20, 2008, there would be no extension fees due. Accordingly, a refund of such extension fees is appropriate and is hereby requested.

Respectfully submitted,

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: May 20, 2008

/DJCushing/
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